

KATK300020302019



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., AT GUBBI.**

Dated this the 17th Day of March 2022.

**Present: Undi Manjula Shivappa,
B.Sc.LLM.,
Senior Civil Judge.**

O.S.177/2019

Plaintiffs: Doddamma and Others

V/s

Defendants: Kadaraiah and Others

I.A.No.I/2021

Applicant: Eramma (2nd plaintiff)

V/s

Opponent: Shivanna S/o late Chitthaiah,
Aged about 56 years,
R/o Yaladasanahatti, Hosakere post,
Hagalavadi Hobli, Gubbi Taluk.



ORDER

The applicant/ 2nd plaintiff has filed the I.A. No.I under Order 1 Rule 10(2) of CPC., seeking to implead the opponent as proposed defendant No.5 for proper and effective adjudication of the matter.

2. In the affidavit the applicant/ 2nd plaintiff has stated that, herself and plaintiffs have filed this suit for seeking relief of their right in the suit schedule properties and at the time of filing the suit through oversight brother of the defendants i.e., proposed defendant No.5 is left out, hence it is just and necessary to implead the opponent as proposed defendant No.5 and if this application is allowed, no harm or injury will cause to the other side and if the application is not allowed, she will be put to irreparable loss, damage and injury which cannot be compensated by any means, hence prayed to allow the application.

3. On the other hand, the defendants have not filed objection to the said application.



4. I have heard on I.A., and perused record.
5. The following points arise for my consideration:
 - 1) Whether the application filed under Order 1 Rule 10(2) of CPC., by the applicant/2nd plaintiff is deserves to be allowed?
 - 2) What order?
6. My answers to the above points are as follows:

Point No.1 : In the Affirmative.

Point No.2 : As per final Order, for the following:-

REASONS

7. **POINT No.1:** This is the application filed by the 2nd plaintiff seeking to implead the opponent as defendant No.5. She has also filed affidavit in support of I.A. where she submitted the plaintiffs have filed the suit for partition and separate possession and due to oversight they have left out the proposed defendant No.5 who is none other than the brother of defendants and he is also one of the coparcener.



8. On the other hand the defendants have not objected the said application and not filed the objections, hence there is no reason to disbelieve the contents of application. Hence I, answer Point No.1 in the Affirmative.

9. **POINT No.2:** For the aforesaid reasons and findings on Point No.1, I proceed to pass the following:-

ORDER

The application filed under Order 1 Rule 10(2) of CPC., is allowed.

The proposed opponent is permitted to implead as defendant No.5.

The plaintiffs are permitted to carry out amendment.

(On my dictation transcribed and typed by the Stenographer, print out taken by her, corrected and then pronounced by me in the Open Court on this the 17th Day of March 2022.)

Sd/-
(UNDI MANJULA SHIVAPPA)
Senior Civil Judge & JMFC.,
Gubbi.

